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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------------|------------------------|
| 10/589,316 | 08/10/2006 | Monica Macha | 4255 | 5995 |
| 27727 7590 12/12/2007 PEDERSEN & COMPANY, PLLC P.O. BOX 2666 BOISE, ID 83701 | | | EXAMINER PUROL, DAVID M | |
| | | | ART UNIT 3634 | PAPER NUMBER |
| | | | MAIL DATE 12/12/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/589,316

Applicant(s)

MACHA, MONICA

Examiner

David M. Purol

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>08102006</u> . | 6) <input type="checkbox"/> Other: _____ |

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 120.

The drawings are further objected to for the reference numerals 23,24 have been used interchangeably throughout the specification and in the drawing figures.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Claims 7,22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims refer to a "wrong side" which is indefinite in that that which is considered "wrong" is subject to personal interpretation.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,7,10,11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Constance. Constance discloses a drape comprising first, second, liner fabrics 18,10,16,8,6 which are capable of being reversed if so desired.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Constance in view of Nichols. While Constance does not disclose the drape as having first and second headings, Nichols discloses a drape having first and second headings 18, wherein, to incorporate this teaching into the drape of Constance for the purpose of facilitating the mounting of the drape in different positions would have been obvious to one of ordinary skill in the art.

5. Claims 8,9,12,16,17,21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Constance in view of Mole. While Constance does not disclose the use of an opening, Mole discloses a drape 10,12,13 using a fastening arrangement 14 which provides for an opening, wherein, to incorporate this teaching into the drape of Constance for the purpose of accessing the fabrics would have been obvious to one of ordinary skill in the art.

6. Claims 13-15,18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Constance in view of Mole as applied to claims 8,9,12,16,17,21 above, and further in view of Nichols. While Constance does not disclose the drape as having first and second headings, Nichols discloses a drape having first and second headings 18, wherein, to incorporate this teaching into the drape of Constance, as modified by Mole, for the purpose of facilitating the mounting of the drape in different positions would have been obvious to one of ordinary skill in the art.

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Constance. Regarding the methodology of using the drape, inasmuch as Constance discloses the claimed structure of the drape the recited steps yield nothing more than a predictable result to one of ordinary skill in the art at the time of the invention.

8. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Rosenberg, Collester, Dubinsky, Stern, Sachs, Heimberg, Ryan, Isoda, Leonard, Stewart.


9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to David M. Purol whose telephone number is (571) 272-6833.

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If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Brian Glessner, can be reached at (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David M Purol
Primary Examiner
Art Unit 3634

DMP
(571) 272-6833
December 6, 2007